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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,892	11/21/2003	David W. Nippa	OPI 0004 PA/41004.11	1439
7.	590 10/04/2005		EXAMINER	
DINSMORE & SHOHL LLP			RAHLL, JERRY T	
One Dayton Centre, Suite 500 Dayton, OH 45402-2023			ART UNIT	PAPER NUMBER
Dayton, OII			2874	
			DATE MAILED: 10/04/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

			Are		
	Application No.	Applicant(s)			
•	10/719,892	NIPPA ET AL.			
Office Action Summary	Examiner	Art Unit			
	Jerry T. Rahli	2874			
The MAILING DATE of this communication ap Period for Reply	pears on the cover sheet v	with the correspondence ac	idress		
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING ID Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period. Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUN. .136(a). In no event, however, may a d will apply and will expire SIX (6) MC te, cause the application to become a	IICATION. a reply be timely filed DNTHS from the mailing date of this can be appropriately as the second state of the capacity of the second state of the second sta	, ,		
Status					
	is action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4) ☐ Claim(s) 1-60 is/are pending in the application 4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) 1-60 are subject to restriction and/or	awn from consideration.				
Application Papers					
9) The specification is objected to by the Examin					
10)☐ The drawing(s) filed on is/are: a)☐ ac					
Applicant may not request that any objection to the		• •			
Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the E			* *		
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreig a) All b) Some * c) None of: 1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list	nts have been received. Its have been received in ority documents have bee au (PCT Rule 17.2(a)).	Application No on received in this National	Stage ,		
Attachment(s)					
1) Notice of References Cited (PTO-892)		Summary (PTO-413)			
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No	o(s)/Mail Date Informal Patent Application (PT0	0-152\		
Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08 Paper No(s)/Mail Date	6) Other:		J-192)		

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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-58, drawn to a method of fabricating an integrated optical device, classified in class 385, subclass 40.
 - II. Claim 59, drawn to a method of fabricating an integrated optical device, classified in class 385, subclass 129.
 - III. Claim 60, drawn to an integrated optical device, classified in class 385, subclass40.
- 2. The inventions are distinct, each from the other because of the following reasons:
- 3. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions the inventions have different modes of operation. Invention I describes removing portions of the core material, while Invention II describes using a sol gel method to form the buffer layer.
- 4. Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case Invention III can be made without removing portions of the core material. Masks could be used to build up the desired care areas, alternatively.

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5. Inventions II and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case Invention III forming a buffer layer using a sol-gel process. A vapor deposition could be used, alternatively.

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- 6. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II or III, restriction for examination purposes as indicated is proper.
- 7. A telephone call was made to James Beyer on 30 September 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.
- 8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry T. Rahll whose telephone number is (571) 272-2356. The examiner can normally be reached on M-Th (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jerry/T Rahll

AKM ENAYET ÜLLAH PRIMARY EXAMINER

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